

Message Text

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PAGE 01 BONN 12460 01 OF 02 011500Z

44

ACTION EUR-12

INFO OCT-01 ISO-00 EURE-00 SSO-00 NSCE-00 USIE-00 INRE-00

CIAE-00 DODE-00 PM-03 H-02 INR-07 L-03 NSAE-00 NSC-05

PA-01 PRS-01 SP-02 SS-15 HEW-02 SCS-03 SCA-01 SIL-01

LAB-04 /063 W

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O 011446Z AUG 75

FM AMEMBASSY BONN

TO SECSTATE WASHDC IMMEDIATE 1862

LIMITED OFFICIAL USE SECTION 01 OF 02 BONN 12460

E.O. 11652: N/A

TAGS: OVIP (ARENDT, WALTER), ELAB, SWEL, GW

SUBJECT: PROPOSED US-FRG SOCIAL SECURITY AGREEMENT

AND VISIT OF FRG LABOR MINISTER

REF: (A) STATE 173075; (B) BONN 11794; (C) STATE 168325

1. THE EMBASSY DISCUSSED WITH MFA AND MINISTRY OF LABOR THE PROBLEM POSED BY ARTICLE 1 PARA 2 OF THE PROPOSED SOCIAL SECURITY AGREEMENT CONCERNING THE DEFINITION OF "NATIONAL", WHICH IS BASED ON ARTICLE 116 OF THE FRG BASIC LAW, AND THE DEPARTMENT'S PROPOSAL TO DELETE THIS DEFINITION OF "NATIONAL".

2. MFA REPRESENTATIVES INDICATED THAT THE FRG WOULD NOT BE ABLE TO AGREE NOW WITH THE DEPARTMENT'S PROPOSAL AND THAT THIS PROPOSAL WOULD REQUIRE A REVIEW FIRST BY THE MINISTRY OF LABOR ON WHETHER THE TECHNICAL OPERATION OF THE AGREEMENT IS AFFECTED BY THE DELETION OF THIS DEFINITION OF NATIONAL AND THEN BY THE MINISTRY OF INTERIOR, MINISTRY OF JUSTICE AND BY HIGH LEVELS OF THE MFA BECAUSE OF THE POLITICAL IMPLICATIONS OF THIS USG PROPOSAL. AT FIRST THE MFA

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PAGE 02 BONN 12460 01 OF 02 011500Z

REPRESENTATIVES ASKED WHETHER THE DEPARTMENT MIGHT

RECONSIDER THIS NEW POLITICAL PROPOSAL IN THE INTEREST OF COMPLETING THIS US-FRG SOCIAL SECURITY AGREEMENT WHICH FOLLOWS A SERIES OF SUCH AGREEMENTS NEGOTIATED WITH OTHER COUNTRIES. THEN THE MFA REPRESENTATIVES INDICATED THE ABOVE REVIEW WOULD DELAY THE SIGNING DATE UNTIL THIS ISSUE IS RESOLVED.

3. MINISTRY OF LABOR REPRESENTATIVES AGREED WITH OR CLARIFIED THE CHANGES IN THE ENGLISH LANGUAGE TEXT PROPOSED BY HEW/SSA. THUS THE TECHNICAL ASPECTS OF THE PROPOSED AGREEMENT APPEAR TO BE RESOLVED.

4. MFA AND LABOR MINISTRY REPRESENTATIVES DENY THAT THE FRG FAVORS NOT SIGNING THE AGREEMENT UNTIL AFTER CONGRESS HAS PASSED ENABLING LEGISLATION AND THAT LABOR MINISTER ARENDT BELIEVED THIS WOULD BE DONE PRIOR TO SEPTEMBER 3. IN THE FRG, THE FRG PRESIDENT NORMALLY AUTHORIZES THE LABOR MINISTER TO SIGN THE AGREEMENT. THEN THE CABINET SUBMITS THE SIGNED AGREEMENT TO THE BUNDESTAG, WHICH INDICATES BUNDESTAG CONCURRENCE WITH THE AGREEMENT AND ITS PROTOCOL AND ENACTS THE AGREEMENT INTO FRG LAW. UNTIL THE ISSUE OF DEFINING "NATIONAL" WAS RAISED BY THE USG, LABOR MINISTER ARENDT WAS PREPARED TO VISIT WASHINGTON TO SIGN THE AGREEMENT ON SEPTEMBER 3 WITH THE USG REPRESENTATIVE AUTHORIZED TO SIGN THE AGREEMENT ON BEHALF OF THE USG.

5. MINISTER ARENDT'S OFFICE HAS BEEN ALERTED TO POSSIBILITY OF DELAY IN THE SIGNING DATE PENDING CLARIFICATION OF ABOVE DIFFICULTIES.

6. COMMENT: DURING THE ABOVE CONVERSATIONS, IT WAS APPARENT THAT FRG REPRESENTATIVES WERE DISAPPOINTED BY THE NEW DEPARTMENT PROPOSAL ON THE POLITICAL ISSUE OF ELIMINATING THE DEFINITION OF FRG NATIONALS AT THIS LATE STAGE IN THE NEGOTIATIONS OF THIS SOCIAL SECURITY AGREEMENT. THERE WERE ALSO INDICATIONS OF CONSTERNATION THAT THE DEPARTMENT'S PROPOSAL MIGHT REFLECT A CHANGE IN USG SUPPORT FOR THE FRG POSITION. THE LIMITED OFFICIAL USE

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PAGE 03 BONN 12460 01 OF 02 011500Z

FRG DEFINITION OF "NATIONAL" IS INCLUDED IN SEVERAL RECENT SOCIAL SECURITY AGREEMENTS NEGOTIATED WITH GREAT BRITAIN AND OTHER NATO COUNTRIES, INCLUDING CANADA, BELGIUM, PORTUGAL, TURKEY AND GREECE, AS WELL AS OTHER COUNTRIES INCLUDING SPAIN AND AUSTRIA. IN VIEW OF THESE PRECEDENTS, THE QUESTION ARISES WHETHER ACCEPTANCE OF THE FRG DEFINITION OF "NATIONAL" IN THE PROPOSED SOCIAL SECURITY AGREEMENT WOULD

NECESSARILY UNDERMINE USG EFFORTS TO AVOID A DEFINITION OF NATIONALITY IN THE US-GDR CONSULAR CONVENTION. IT IS ALSO ARGUABLE THAT THERE IS A MUCH GREATER NEED FOR A DEFINITION OF "NATIONAL" IN A SOCIAL SECURITY

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PAGE 01 BONN 12460 02 OF 02 011457Z

44

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LIMITED OFFICIAL USE SECTION 02 OF 02 BONN 12460

AGREEMENT THAN IN A CONSULAR CONVENTION.

ANOTHER POSSIBLE ALTERNATIVE, THAT THE MINISTRY OF LABOR HAS SUGGESTED INFORMALLY, MIGHT BE TO DELETE THE DEFINITION OF NATIONAL IN ARTICLE 1 PARA 2 OF THE PROPOSED SOCIAL SECURITY AGREEMENT AND TO REVISE THE FIRST PART OF ARTICLE 3 TO READ AS FOLLOWS:

"UNLESS OTHERWISE PROVIDED, THE PRESENT AGREEMENT SHALL APPLY TO
(A) NATIONALS OF EITHER CONTRACTING STATE WITHIN THE MEANING OF ARTICLE XXV PARA 6 AND PARA 22 OF THE PROTOCOL OF THE TREATY OF FRIENDSHIP, COMMERCE AND NAVIGATION BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE UNITED STATES OF AMERICA."

7. ACTION REQUESTED: IN VIEW OF THE ABOVE SOCIAL
SECURITY AGREEMENT PRECEDENTS FOR OTHER NATO COUNTRIES
AND THE POLITICAL IMPLICATIONS FOR THE FRG OF POST-
PONING AT THIS LATE STAGE FINAL CLEARANCE OF THIS
AGREEMENT AND OF POSTPONING ARENDT'S PLANNED VISIT TO
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PAGE 02 BONN 12460 02 OF 02 011457Z

THE US, THE EMBASSY WOULD APPRECIATE THE DEPARTMENT'S
RECONSIDERING THE ACCEPTANCE OF ARTICLE 1 PARA 2 OR
ALTERNATIVELY AUTHORIZING THE EMBASSY TO SUPPORT
THE ABOVE CHANGE INFORMALLY SUGGESTED BY THE MINISTRY
OF LABOR SIMPLY TO REFER IN ARTICLE 3 TO THE EXISTING
FRG-US FCN TREATY.
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